

**REMARKS**

In the Office Action,<sup>1</sup> the Examiner rejected claims 1-8 and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,699,532 to Barrett et al. ("Barrett") in view of U.S. Patent No. 6,098,108 to Sridhar et al. ("Sridhard").

Applicants propose amending claims 1, 6, 19, and 21. Upon entry of this Amendment, claims 1-22 would remain pending. Claims 9-18 are withdrawn from consideration over Applicants' traversal of the restriction requirement filed November 15, 2006. Accordingly, claims 1-8 and 19-22 are under examination. Applicants respectfully request reconsideration of this application in light of the following remarks.

Applicants respectfully traverse the rejection of claims 1-8 and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over Barrett in view of Sridhar. To properly establish a *prima facie* case of obviousness under § 103(a), the cited references, taken individually or in combination, must teach each and every element recited by the claims. A *prima facie* case of obviousness has not been established at least because Barrett and Sridhar, taken individually or in combination, fail to teach each and every element recited by the claims.

Claim 1, as proposed to be amended, calls for a method including, for example, "receiving one or more lists of available resources from one or more computer devices . . . determining whether the communication channel requires communication with at least one of the computer devices; [and] instantiating, based on the list of available

---

<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

resources for the required computer devices, the communication channel with the application process using the communication protocol” (emphasis added). Neither Barrett nor Sridhar teach or suggest at least these elements.

For example, Barrett discloses “allocating and activating a multi-path channel group . . . in response to a request from the user application” (Barrett, col. 10:12-14), but does not teach or suggest “receiving one or more lists of available resources from one or more computer devices . . . determining whether the communication channel requires communication with at least one of the computer devices; [and] instantiating, based on the list of available resources for the required computer devices, the communication channel with the application process using the communication protocol,” as recited in claim 1, as proposed to be amended (emphasis added). Moreover, Sridhar discloses obtaining “an address of a second server system which will provide communication services needed to communicate using the enhanced communication approach” (Sridhar, col. 5:17-20), but also does not teach or suggest at least “receiving one or more lists of available resources from one or more computer devices . . . determining whether the communication channel requires communication with at least one of the computer devices; [and] instantiating, based on the list of available resources for the required computer devices, the communication channel with the application process using the communication protocol,” as recited in claim 1, as proposed to be amended (emphasis added). Accordingly, no *prima facie* case of obviousness has been established with respect to claim 1.

Independent claims 19 and 21, although of different scope than claim 1, are proposed to be amended in a manner similar to claim 1 and patentably distinguish from

Barrett and Sridhar for at least the same reasons as claim 1. Claims 2-8, 20, and 22

depend from claims 1, 19, or 21, and include all of the elements recited therein. No *prima facie* case of obviousness has been established at least due to their dependence. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claims 1-8 and 19-22 under 35 U.S.C. § 103(a) as being unpatentable over Barrett in view of Sridhar.

Applicants respectfully request that the Examiner enter this Amendment under 37 C.F.R. § 1.116, placing claims 1-8 and 19-22 in condition for allowance. Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Applicants also submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing, Applicants request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

*/Nathan A. Sloan/*

Dated: September 13, 2007

By: \_\_\_\_\_  
Nathan A. Sloan  
Reg. No. 56,249  
202.408.4312